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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/608,311

06/30/2000

Xiao-Dong Xiang

6050/54207

9392

7590

08/11/2004

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EXAMINER

PATEL, PARESH H

ART UNIT

PAPER NUMBER

2829

DATE MAILED: 08/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/608,311

Applicant(s)

XIANG ET AL.

Examiner

Paresh Patel

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 May 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-53 is/are pending in the application.
- 4a) Of the above claim(s) 1-21, 31-42 and 44-52 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 22-30, 43 and 53 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election with traverse of species A1a (claims 22-30, 36-44, 46, 49, 50 and 53) in the reply filed on 05/21/2004 is acknowledged. The traversal is on the ground(s) that *"The Applicant traverses the election/restriction requirement for the reason that one or more generic claims are allowable"*. This is not found persuasive because generic claims 22 and 53 are not allowable.

Applicant's arguments filed on 05/21/2004 and 12/17/2003 with respect to claims 22-53 have been considered but are moot in view of the new ground(s) of rejection.

Examiner noted Declaration under 37 CFR 1.132 by Xiao-Dong Xiang (one of the inventor).

Claims 31-35, 45, 47, 48, 51 and 52 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected species, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 05/21/2004.

Examiner also withdraws claims 36-42, 44, 46 and 49-50, because they read on non-elected species.

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This application contains claims 1-6 drawn to an invention nonelected without traverse in Paper No. 02/20/2003. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 22-30, 43 and 53 are rejected under 35 U.S.C. 102(b) as being anticipated by Tabib-Azar et al. (Non-destructive characterization of materials by evanescent microwaves).

Regarding claims 22 and 53, Tabib-Azar et al. (hereafter Azar) in fig. 1 and 4 discloses: A method for measuring electrical impedance [see lines 1-4, section 4, page 590] of a sample using a probe having a tip [see column 2 on page 589], comprising:

measuring interaction [section 2.1, page 584] between said tip and said sample without contacting [fig. 4] said sample with said tip; and

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deriving electrical impedance [using computer from admittance, see equation 1, page 585 and 13 at page 586] from said tip-sample interaction.

Regarding claim 23, Azar discloses scanning evanescent microwave probe having tip extending from a coaxial or transmission line resonator [microstrip line resonator of fig. 1]

Regarding claim 24, Azar discloses quantitative and qualitative measurements [last paragraph of section 2 on page 584 and equations 1-3 on page 585].

Regarding claim 25, Azar discloses complex dielectric constant and conductivity [equations 1-16].

Regarding claim 26, Azar discloses sample comprises a metallic conductors material [copper on fiber glass at page 588, PCB of fig. 8 and aluminum plate of page 589].

Regarding claim 27, Azar discloses sample comprises multi-layered material [PCB of fig. 8].

Regarding claim 28, Azar discloses sample comprises a metallic conductors material [aluminum of page 589].

Regarding claims 29 and 43, Azar discloses interaction is measured with modulated external field [fig. 10 and conductivity of the sample due to its radiation variation].

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paresh Patel whose telephone number is 571-272-1968. The examiner can normally be reached on 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kamand Cuneo can be reached on 571-272-1957. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Paresh Patel
August 05, 2004

A handwritten signature in black ink, appearing to read 'Paresh Patel', written over a stylized, curved line that serves as a baseline or flourish.